

21st February 1948]

(2) THE MADRAS WEIGHTS AND MEASURES BILL, 1947
(L.C. BILL NO. 2 OF 1948).

* THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
'that the following seven members of this House be nominated to the joint select committee appointed to consider the Madras Weights and Measures Bill, 1947 (L.C. Bill No. 2 of 1948) :—

(1) Sri M. Sudarsanam.

(2) Sri K. Venkataswami Nayudu.

(3) Mrs. Mona Hensman.

(4) Mr. K. T. M. Ahmed Ibrahim Sahib.

(5) Sri N. Venkatachalamaji.

(6) Sri M. K. Sundararama Ayyar.

(7) The Mover (the Hon. Sri K. Madhava Menon).'

" Sir, this Bill also was first introduced in this House, and on a motion from this House to the Assembly, the Assembly has selected its members for the select committee.

" Sir, I have tried as far as possible to select in a measure dealing with the standardization of weights and measures only those who are in business to be on the select committee."

MR. PRESIDENT :—" You have taken into consideration the weight of members!" (Laughter.)

The motion was put and carried.

(3) THE MADRAS SUPPRESSION OF DISTURBANCES BILL, ^a 1947
(L.A. BILL NO. 5 OF 1948).

* THE HON. SRI K. MADHAVA MENON :—" Sir, I have got the permission of the Hon. Dr. P. Subbarayan to move the Bill on his behalf. I move—

'that the Madras Suppression of Disturbances Bill,^a 1947, as passed by the Legislative Assembly be taken into consideration at once.'

We are living in unusual times. The tragic happenings in the North after August 15th, have made it necessary for every Provincial Government in India to take certain special powers to deal with emergent situations. In view of the disturbances in other parts of the country which have led to considerable loss of life and property, this Government consider it essential to arm themselves in advance with power to suppress any disturbances with the utmost promptitude. The Bill received almost unanimous support from the other House in spite of its drastic nature. Some papers have said to-day that the Bill, though alarming, is necessary. It is not at all our intention that we will have occasion to use it. Luckily for this province, there has not been much of that trouble which disfigured the northern part of our country. Recently

11-30
a.m.

[Sri K. Madhava Menon] [21st February 1948]

we have had certain warnings that we should be very careful and arm ourselves with sufficient powers to meet any unforeseen contingencies. On the 30th of January, there was communal disturbance in Tiruvannamalai which led to severe loss of property. This and similar unfortunate happenings in Erode, Rajapalayam, and Idapalayam are a pointer that we should be very careful in the present circumstances. This Bill was published in November last year but the Government thought that there would not be any necessity for it. But we have found from experience that it is better to be armed with powers to prevent mischief, as prevention is better than cure. Drastic diseases require drastic remedies. Certain offences committed in the course of disturbances, which are not punishable with death in normal times, are sought to be punished with death. The offences are dealt with in sections 307, 363 to 368, 376, 392, 394, 395, 397, 398 and 436 of the Indian Penal Code. They are attempt to murder, kidnapping or abducting in order to murder, kidnapping or abducting with intent secretly and wrongfully to confine person, kidnapping or abducting woman to compel her marriage, etc., kidnapping or abducting in order to subject person to grievous hurt, slavery, etc., wrongfully concealing or keeping in confinement kidnapped or abducted person, rape, robbery, voluntarily causing hurt in committing robbery, dacoity, robbery or dacoity with attempt to cause death or grievous hurt, attempt to commit robbery or dacoity when armed with deadly weapon, and mischief by fire or explosive substance with intent to destroy house, etc. We find in the papers appeals by leaders to surrender kidnapped or abducted persons. The punishment provided in the normal law may not be a sufficient deterrent and unless more drastic punishments are provided the consequences will be serious. Let us hope that there may not be any occasion to use the powers sought under this Bill; but if the need arises—God forbid—let us not be taken unawares. That is the object of the Bill. It is a small Bill with six clauses and no further elucidation is necessary. The Bill as introduced in the Assembly gave power to order the opening of fire or even causing death to any police officer not below the rank of head constable. Later on it was changed into any police officer not below the rank of Sub-Inspector of Police.

“I hope the House will give its support to the Bill.”

* SRI R. SURYANARAYANA RAO :—“Mr. President, Sir, I am sure the House feels that it is labouring under a disadvantage due to the absence of the Hon. Home Minister who piloted the Bill in the other House. Whatever may be the equipment of Hon. the Minister in charge of the Bill for piloting a Bill of this sort, I am sure the presence of the Hon. Minister would have enabled us to know what the necessity for this Bill is. First of all, I would like to be convinced as to how far the existing laws have proved inadequate to meet situations of the kind envisaged to be dealt with in this Bill. The provisions of this Bill come into effect only after an area is declared a disturbed area. Unless the Government declare the whole Province as a disturbed area, the provisions cannot

21st February 1948] [Sri R. Suryanarayana Rao]

come into effect immediately throughout the province. After a disturbance takes place, after mischief is done, an area is declared a disturbed area. So far as offences committed before the declaration of an area as a disturbed area are concerned, I do not think this enactment will serve the purpose for which the Government intend this Bill to serve. The Bill says that for certain offences committed in a disturbed area, the punishment will be different from the punishment provided for in the existing law. If the Government really feel that they have not got sufficient power to prevent disturbances, I do not think this Bill will enable them to obtain such powers in spite of awarding the extreme punishment of death for offences referred to in section 4.

"I take strong objection to section 5. It says:

'Any Magistrate, and any Police Officer not below the rank of Sub-Inspector, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any

Under the present laws, the police are required to give previous warning to the public before fire is ordered to be opened and certain other preliminaries have to be gone through. As I read the section, they will not be bound to give any warning in future. Evidently this provision is intended to do away with those preliminaries.

"Again, section 5 begins with the words 'Any Magistrate, and any police officer not below the rank of 'Sub-Inspector' and continues 'after giving such warning, if any, as he may consider necessary'. There are two officers, a magistrate and a police officer, and I do not know to whom the word 'he' refers. Does it refer to the magistrate or the police officer or both? It may be that they both must consult each other and then issue an order to open fire."

MR. PRESIDENT:—"and' means 'or'. Is it correct, Mr. Madhava Menon?"

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir."

SRI R. SURYANARAYANA RAO:—"It may be but I am not sure whether 'and' can ever mean 'or' and 'or' can be read for 'and'."

"About the use of fire arms, in the year 1921, the Rt. Hon. V. S. Srinivasa Sastri moved a resolution in the old Imperial Legislative Assembly because at that time firing was resorted to very frequently often indiscriminately without least provocation and without taking proper precautions. The conditions that he then stipulated were as follows:—

(i) *No fire-arms should be used except on the written authority of a magistrate of the highest class that may be available on the spot;*

(ii) *in cases of grave emergency when no magistrate is available in the neighbourhood, the chief police or military officer present on the spot may, if he considers that the riot or unlawful assembly*

[Sri R. Suryanarayana Rao] [21st February 1948]

cannot be suppressed otherwise, employ fire-arms; but the onus of proving the emergency and the impossibility of securing the presence of a magistrate within the proper time shall lie on the officer so acting;

(iii) before resorting to fire-arms, the magistrate or other civil or military officer responsible shall read or cause to be read a proclamation both in English and in the local vernacular similar to that contained in the English Riot Act;

(iv) fire-arms shall not be used for one hour after such proclamation has been read unless in the meantime, the assembly or crowd actually causes serious damage to person or property;

(v) before the crowd is actually fired upon, the fullest warning shall be given;

(vi) the magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary;

(vii) the sanction of the 'Governor-General-in-Council' (Here I would like to substitute the words 'Provincial Government' for the word 'Governor-General-in-Council' should not be a condition precedent to the institution of a criminal prosecution against officers or other persons who have acted illegally in the suppression of riots; and

(viii) every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such court or the High Court of the Province.'

11-45
a.m.

" These were the conditions urged to be adopted before firing was restored to in the year 1921. We are now in the year 1948 and also we are supposed to have attained independence. Now the Government want to give powers to Police officers to use fire-arms without giving fullest warning and also without providing the necessary safeguards for those affected by it, to seek remedy after the use of fire-arms by introducing clause 6 in this Bill. I think the whole of clauses 5 and 6 simply place the ordinary citizen at the mercy of the police. Is it wise for the Government, however panicky they might have become, to give such wide powers to the police without affording any scope for the citizen to seek redress, if the power is misused by the police officer?

" Then Sir, I feel that clauses 5 and 6 are retrograde, undemocratic and unworthy to be brought forward by a popular Government for the sanction of the legislature. They take away the valuable right of a citizen to seek redress in a court of law when a police officer commits a grave mistake in firing at an armed or unarmed crowd, without sufficient provocation and without giving due warning which is required to be given under the police orders. At present a certain procedure has to be adopted before firing is resorted to by the police. Under this Act no such procedure need be adopted. I feel very diffident to subscribe to a proposition of the kind contained in clause 5 of the Bill. I would not say that

21st February 1948] [Sri R. Suryanarayana Rao]

every police officer would misuse his powers deliberately, but if anyone does so, I would not deprive the legitimate right of a citizen to seek his remedy by instituting legal proceedings.

"Then Sir, as I have already stated, clause 6 gives protection to the police officer who misuses the power given under clause 5. Instead of protecting the citizen against the misuse of the power, it is sought to protect the person who misuses the power. I do not think I can be a party to this Bill as it stands and I do not think, Sir, that the Government really needs these powers. As I said at the beginning unfortunately the hon. Minister in charge of the Bill is not here to disclose to us what difficulties he has experienced to maintain law and order and to keep peace with the help of the existing laws and with the help of the existing police, armed with the powers that are already contained in the various codes and statutes. In the absence of this information, I hesitate to say this Bill is necessary; and even if it is passed, I do not think it will be used in practice, because action has to be taken only after an area has become disturbed and only after declaring it to be a disturbed area. To empower the police officers to use fire-arms and kill persons, without affording the valuable privilege to the citizen to seek redress against any misuse of that power appears to me unjust and improper. I do not think I can subscribe to a legislation of this sort and I, therefore, oppose it, Sir."

SRI B. NARAYANASWAMI NAYUDU :—"Mr. President, Sir, we have got before us a number of hon. Members who are lawyers. The hon. Member from Bellary, the hon. Member from Anantapur, and the hon. Member from Tanjore are all lawyers. My hon. Friend representing the Indian Christian constituency is also an advocate. The hon. Minister who piloted this Bill is himself a lawyer and the hon. Minister in charge of the Bill is also an advocate and I dare say they have not realised the full implications of this Bill, and especially clause 5 of the Bill. I am not at present concerned with clause 4 at all, or for that matter any other clauses of the Bill, except clause 5. Clause 4 makes certain offences punishable with death. The man who commits the offence under this clause goes before a court of law. He is alive and evidence is let in before the court and the court decides whether he is to be punished with imprisonment or death. Here, there is no interference with the jurisdiction of the court by the Government.

"But that is not the case with clause 5. I ask the Government, what is their policy in regard to these Government Bills? Have they got different policies for different Bills? Have they got one policy for vital and important Bills and another for non-vital and non-essential Bills? Which are the Bills which are referred to the Select Committee and which are not? Is this Bill vital or not? With regard to the Weights and Measures Bill, which is after all a routine and non-essential Bill, there was a Select Committee consisting of seven members from this House and fifteen members from the other House constituted to consider it. There were ever-so-many other unimportant and non-essential

[Sri B. Narayanaswami Nayudu] [21st February 1948]

Bills which were referred to Joint Select Committees consisting of 15 and 30 members of both Houses. In a matter of this kind, where the lives of men can be taken, when men can be shot dead or hanged, there is no Select Committee to examine and consider the various clauses of the Bill. The Government simply want to rush through the Bill. The Bill was not even placed on the table of the House. Is it the policy of the Government to constitute Select Committees only for non-essential Bills and not for what may be called vital Bills? This is a Bill affecting all parties. It is going to affect not only our party, but every individual and every citizen in the Presidency. Is it not your duty to take members of all parties into confidence and see how far they are agreeable to a measure like this? That is my criticism and that is my protest, so far the procedure adopted for passing this Bill is concerned.

“ Now Sir, take section 5. What does it say? It says :

‘ Any Magistrate and any Police Officer not below the rank of head constable, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any, as he may consider necessary, fire upon, or otherwise use force, even to the causing of death, against, any person who in a disturbed area is acting in contravention of any law or order for the time being in force in such area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons. ’

“ It makes no mention about the jurisdiction of the Magistrate. Any Magistrate sitting at Madras or Chingleput can order fire to be opened against a crowd in Madura or Tinnevely. Is that the idea? I ask the Minister in charge, what does he mean by it? Is it any Magistrate or any Police officer that is given the power to shoot, or is it the Magistrate or Police officer having jurisdiction in the matter and having jurisdiction over the territory alone that can resort to firing? I pause for a reply. (There was no reply.) (An hon. Member : ‘ No reply will be given. ’) No reply will be given! Yes, it will be given in due time. I say, Sir, it is wrong. If the Government say that that is not the intention, then I shall abide by it. But the clause as it stands, does not say that. It gives power, as if the Saidapet Magistrate can fire or give orders to fire the citizens in Tuticorin, if in his opinion, they cause disturbance to public peace. It is quite wrong. You should withdraw that clause altogether. I should like to be enlightened, if that is the idea.

“ Then the clause says, ‘ Any Magistrate and any Police Officer . . . ’ It does not say whether it is a First-class Magistrate, or a third-class magistrate or an honorary magistrate. May I ask the Hon. Minister a plain question? Can an honorary magistrate use the power? Please answer me. (No reply.) I ask, even without reading the section, can a third-class magistrate or an honorary magistrate give orders to shoot? Then what is the use of consulting a magistrate? What is the use of giving a warning? Who is to order the police to fire and what is the magistrate for? The whole clause is wrong.

21st February 1948] [Sri B. Narayanaswami Nayudu]

"Then again, Sir, the clause says, that if a man goes in a street with a stick in his hand, which is a prohibited area, he can be shot dead, by any Magistrate or Police officer. Is that the intention of the section? If that is so, I shall not be a party to the passing of this measure. I say, it is most criminal; it is ignominious.

"Then, what is the definition that is given to the term 'weapon'? What is it, that he must not carry in the street? Can he not carry even a stick? If there is an order saying that no man should carry a stick, and if a man carries a stick for helping himself to walk, according to this section, he can be shot dead. I hope that is not the intention.

"Then again, if five or more persons walk along the street in a disturbed area, they form an unlawful assembly and they come within the mischief of the law. The next thing prohibited is, that they must not carry any weapon, or anything which is capable of being used as a weapon. Has this clause been really considered and thought out? I say, Sir, the consequences of this Bill have not been thought out.

"If you say that you are not going to use this Bill at all, then why do you want to pass this Bill? I cannot suppress my feelings in this matter. How are you going to work this legislation? My hon. Friend said that it is undemocratic. I say, it is not only undemocratic, but it is a foolish Bill.

"Therefore, Sir, my submission is that it is criminal—I am deliberately using that word and have no desire to provoke you—but this is my feeling in this matter—it is criminal on your part to pass a legislation like this. People will curse you for this Bill and I shall certainly not vote for it, but shall oppose it tooth and nail."

* DR. V. K. JOHN :—"Mr. President, Sir, I am deeply in sympathy with the Government taking powers to maintain order in disturbed area and I think they should be armed with sufficient power to maintain peace and order when an area is disturbed. We know very well that any area might be disturbed at any time in these abnormal times. I have not the slightest objection to the provision in clause 4, which provides that any man who commits an offence under this clause, may, in lieu of the punishment to which he is liable under the Indian Penal Code, be punished with death, for attempt to murder, abduct, or rape or arson or commit other offences covered by this section. The jurisdiction of the court is not excluded and it is for the Court to decide whether in a particular case, a person should be punished with death or let off with a lesser punishment. I do not think that anybody can seriously object to such a provision being made in clause 4, but it must be said that clause 4, which merely provides for punishment by death, is not sufficient to maintain order in a disturbed area and that something more is required. But, Sir, if you read carefully, clause 5 of the Bill, you will find that any police officer, not below the rank of a police sub-inspector may open fire. I do not think, Sir, that is necessary at all to make a provision under

[Dr. V. K. John] [21st February 1948]

12
ncon.

which a police officer can shoot a man to death, if in his opinion, the man is carrying a weapon or is a member of an unlawful assembly. Even the wording here is unfortunate. It says: 'After giving such warning, if any, as may be considered necessary . . . I am not quite sure whether the warning is required. The words 'if any' are there. Is he bound to give a warning or not? The words, 'if any' show that he is not bound to give a warning. He can shoot down men if in his opinion it is necessary to do so for maintaining public order. I think this is a very large power to be reserved for Government, for Ministers and for higher officers or magistrates. This power is not to be conferred on police officers about whom we cannot be quite sure whether they will exercise that power with justice or correctness. Therefore, it would be quite sufficient to make a provision conferring this power on magistrates, whether they be first-class, or second-class or even third-class. He should order the police to open fire. I do not see why in a piece of legislation like this, we must do the extraordinary act of allowing a sub-inspector of police to decide for himself whether a man is carrying a weapon, whether he is a member of an unlawful assembly, and, in the interests of preserving order whether that man should be shot down. I think the purport of this legislation is in clause 5 and not in clause 4. Although clause 4 is there, the legislation substantially is to the effect that power is conferred on a sub-inspector of police under clause 5 to order the opening of fire when he considers it necessary, even without a warning, and kill men. If that clause stood alone, it would look very atrocious that a Legislature should pass such a Bill. I want to put this Bill in its correct perspective. It is provided that Government could declare an area as a disturbed area, and then any police inspector can shoot down a man or use any force against him and kill him, if in his opinion he considers it necessary to do so. Sir, this is very extraordinary. This is worse than declaring an area as a 'Martial law' area. Even in a Martial law area; it is a senior officer who can act, and we can expect that he would act in accordance with justice which the situation demands. You give unlimited powers to a police officer of the rank of a sub-inspector first to decide for himself whether there is a case to shoot down a man, and then shoot him down without any liability whatsoever. Particularly when he can easily get a general order from the magistrate, if desired. Now, without any order, whether the magistrate is near him, or far away from him, a sub-inspector of police can decide for himself whether it is necessary to shoot a man down. That is a most extravagant power that can be given by the Legislature to a sub-inspector of police. We have to look at this piece of legislation with some detachment. I do not have the slightest objection to investing power on a popular Government to decide for themselves whether a particular area is a disturbed area or not, because we have every confidence in them, that they will not declare unnecessarily an area as a disturbed area. I have no objection to the magistrate taking a decision on the spot before he asks the police to order the shooting down of men. (Interruption.) I have no objection to the

21st February 1948] [Dr. V. K. John]

magistrate after taking a decision, to order the police to open fire in a disturbed area in order to maintain order. But I certainly have very serious objection to a police sub-inspector deciding for himself and then opening fire on people. I have no doubt that many members of this House, although they may be unable to vote with me, will find this a most extravagant piece of legislation which confers power on a sub-inspector of police to decide for himself and then shoot down men without any liability.

" Sir, clause 6 provides 'no prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Provincial Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred by section 5.' Even the words which we usually find in clauses like this 'in good faith' we do not find here. He need not shoot in good faith. He is only purporting to act under this Bill, in exercise of the powers conferred on him under this Bill. The powers conferred on him are that he should decide for himself without consulting anybody and, without even taking orders from the magistrate, shoot down men in a disturbed area most unjustly. Who can say that he did not purport to act in exercise of the powers conferred on him by clause 5? The power to decide for himself is there. Sir, this is a most atrocious piece of legislation for a democratic Government and this Council to pass. As far as the Government are concerned, they must take ample power to keep order and maintain order in a disturbed area, particularly at this time. I know that the Government will act equitably and justly, because I have every confidence in them. But, it will be atrocious if sub-inspector of police in a disturbed area should shoot down anybody out of private malice or so. Why cannot they take permission from magistrates even third-class magistrates? I am quite sure that this Bill is going to be passed into law. I ask the Hon. Minister concerned to see that the words 'Police Officer' are omitted from clause 5 and the words 'in good faith,' are inserted in clause 6. Then every member of the public will co-operate with Government in enabling the Government to maintain order in a disturbed area. I hope my appeal will have some effect on the Hon. Ministers who are present here and who are not present here."

* SRI N. RANGA REDDI :—" Mr. President, Sir, while not subscribing to the arguments that have been advanced by the previous speaker, I submit for the consideration of this House that there are some difficulties in enacting a legislation of this sort. The difficulties that have been mentioned by my hon. Friends arise only after a portion of this province or the whole province has been declared to be in a disturbed state. Therefore, the first thing that has to be taken into consideration is whether the Government have taken sufficient precautions and whether the Government have given sufficient indications in this Bill to say whether a particular area is a disturbed area or not. My submission to this House is that the phrase 'disturbed area' has not been defined and it has

[Sri N. Ranga Reddi] [21st February 1948]

been left to the sweet will and pleasure of the Provincial Government that is actually administering the affairs of the province to decide that. I know, Sir, from actual experience that some of the enactments which have been put on the Statute Book with the very best of intentions have been prostituted and for purposes other than those for which they were originally intended. I may invite the attention of this Hon. House to an enactment which has been placed on the Statute Book as early as 1861 (Central Act V of 1861) which is meant to prevent disorders in the province or in any part of India. Under the Act of 1861, power can be taken by Government under section 15 of the Act to impose punitive taxes on the inhabitants of an area which is considered to be in a dangerous or disturbed state. The term that has been used is :—

‘It shall be lawful for the Provincial Government, by proclamation to be notified in the Official Gazette, and in such other manner as the Provincial Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.’

Unfortunately even in that enactment, no definition has been given of the phrase ‘disturbed area’. In the same way, in this Bill also, there is no definition of the phrase ‘disturbed area’. I fully realize the difficulties that have been mentioned by the Hon. Minister who introduced this Bill. I know the happenings in North India. We are really fortunate that we are not witnessing such things in the South. I hope that we shall not witness such things in the South. I cannot appreciate the argument of my hon. Friend Mr. Suryanarayana Rao who says that there is not much advantage in forging a legislation of this sort, because it can only come into force after an area can be declared as a disturbed area, and after some tragic happenings have taken place. We know such happenings can take place. It is not necessary that such happenings should actually take place for the introduction of this measure. If this Bill is intended to prevent such tragic happenings in Northern India, I have not the least objection. My objection is, when once this Act is placed on the Statute Book, it will be very difficult to resist the temptation, and it will be very difficult to overlook the recommendations of the local officials that a particular area is a disturbed area. Thereupon, the powers given to the magistrates and police officers will follow. Therefore, my submission to Government is, before declaring an area as a disturbed area, as much attention as possible should be given to the subject.

12-15
p.m.

“It should not be done only on the recommendation of the local officials. Even now, under the District Police Act, they can levy a punitive tax. So, We shall consider what area should be notified as a disturbed area and then ask the inhabitants to pay the tax and thus make them responsible for breaking the peace. If the procedure as is stated in the Bill is to be followed, then, there will not be much safety either to the life of citizens or for their property.”

21st February 1948]

DR. V. K. JOHN :—“ Anyhow you are going to vote for the Bill.”

SRI N. RANGA REDDI :—“ My hon. Friend need not put the question to me whether I am going to vote for the Bill or not. I am only bringing for the consideration of this House certain practical difficulties which would be experienced.” (Inter-ruption by Dr. V. K. John.)

MR. PRESIDENT :—“ We would ask the hon. Member to wait and see.”

SRI N. RANGA REDDI :—“ What I submit is that there is safety for the public. I may also submit that if this enactment is for a limited duration as mentioned in section 3, there is no difficulty. As I said when the Act is to be applied, if the disturbed area is to be notified by the Provincial Government under these provisions, there will be no difficulty. But if this power of notifying is to be left to Police officials, there, there will be much difficulty, because, there are various places in this Presidency where factious fights take place and they take place for a long time and in some cases for a number of years. If they say under the Police Act, that it is a disturbed area and if the Police Officer or Magistrate who is there is going to shoot all the people in that village, then there is great danger. I therefore submit for the consideration of the Hon. the Minister that as few a number of officials as possible should be invested with this power under this Act. Great care should be taken in the Selection of these Police Officers and Magistrates who should exercise this power, in the particular area described as a disturbed area.

“ Then, Sir, there is another difficulty and it has also been expressed by my hon. Friend, Mr. Narayanaswami Naidu, and that is with regard to the definition of the word “ Magistrate.” If you look into the definition of the word in the Criminal Procedure Code you will find that there two kinds of Magistrates. The House also is aware that there are two kinds of Magistrates, one the salaried Magistrates and the other, the non-salaried or the honorary Magistrates. There are also what are called Honorary Bench Magistrates who function only as such; there are also Magistrates who act individually. The point to be considered is whether the honorary Magistrates should be invested with this power. As mentioned by my hon. Friend, Dr. V. K. John, this power may be used by some to satisfy their own private grudge. I need not actually bring instances before the House to show how some Police officials misuse their powers for satisfying their own private grudge against certain individuals. Of course, the only consideration is that there is section 6 which says that only with previous sanction of the Government, a prosecution or suit or legal proceedings can be instituted. When a man has been shot down and when that man is dead and gone, can we bring him back? His family may get some compensation. But, the Police official has misused the power. what is the use? Therefore, I submit that I do not entirely agree with the arguments that have been advanced by my hon. Friend. I would say that

[Sri N. Ranga Reddi] [21st February 1948]

before the Provincial Government takes action under this section 3. to notify any particular area as a disturbed area, they should be very cautious and very circumspect. They should not declare or notify any particular area as a disturbed area without taking both the Houses of the Legislature into confidence. They should constitute a Committee of both Houses to decide whether a particular area ought to be declared a disturbed area or not."

MR. PRESIDENT :—" I find a number of hon. Members eager to speak on this Bill. I request for permission of the House to leave now. I may be absent on Monday also on account of some domestic, personal inconvenience. I hope the House will pardon my absence. The Deputy President will act in my place."

(The Deputy President then occupied the Chair.)

SRI B. BHIMA RAO :—" Sir, I want to say a few words with regard to this measure."

(Some hon. Members : " Please speak on the mike.")

SRI B. BHIMA RAO :—" My voice is audible and so, I thought it was not necessary for me to use the mike."

THE HON. DR. T. S. S. RAJAN :—" When the mike is there, the hon. Member may use it."

SRI B. BHIMA RAO :—" Yes, Sir. If at all any district will be affected by this measure, I think, Sir, it would be first applied to my district, Bellary, and then probably the District of Kurnool and then probably the district represented by my hon. Friend, Mr. Narayanaswami Naidu. So, Sir, it is necessary to ponder over the provisions of this Act very carefully before we lend our support to this measure. Sir, in the first place, there is this punishment of death which is provided for in section 4 of this Bill. It is really a very drastic sentence to be imposed. There have been cases, Sir, which I may quote in this House in which similar provisions obtained and were exercised during the disturbances of 1942. I may quote the case of one who was Public Prosecutor in Anantapur District. On a certain day in August 1942, that gentleman had made a speech in the local Ceded Districts College presided over by the then District Magistrate who is now one of the Secretaries to Government. He was suspected of having said something like setting fire or burning of house. The next day he was arrested. Then there was similar provision for imposing sentence of death. That gentleman had to stand prosecution and was fortunately acquitted by a really very good judge. The Jurors also who were good returned a verdict of ' not guilty '. In spite of all these, that gentleman was interned for a number of years till he was finally released. The release took place in 1945 and he was re-instated. Before 1942, he was a Public Prosecutor and now also he is. That instance shows, how such a provision will be misused and how innocent persons may be implicated. This is a very drastic sentence put in legislation like this. After all, even when abnormal conditions prevailed, this sentence of death has been looked down upon by all the civilized nations; civilized nations

21st February 1948] [Sri B. Bhima Rao]

are now doing away with this capital punishment. At this time, after we have achieved Independence, to introduce this punishment in this measure, is against all canons of civilization.

“ Then, Sir, coming to the provision in section 5, it says :

‘ Any Magistrate, and any Police Officer now below the rank of a Sub-Inspector, may, if in his opinion it is necessary so to do . . . etc., etc.’

“ The word ‘ and ’ implies that there should be a combination of the Magistrate and Police Officer. If such a combination is intended, then there is no necessity to say in the second line, ‘ if in his opinion ’. So, I believe, ‘ any Magistrate or any Police Officer ’ would have been all right. I do not know what learned Dr. Subbarayan might say in defence of the Police. I have not got such confidence in the Police as he seems to have. It is very strange that a Police Officer of the rank of Sub-Inspector should be invested with such drastic power as are contained in section 5 of this measure. You may also note that this clause covers all people who are about to commit any offences enumerated in section 4 of this measure. Some of those hon. Members who are lawyers might know what it means. It says that whoever in a disturbed area attempts to commit, or abets the commission of any offence punishable under any section of the Indian Penal Code, referred to in sub-section (1) namely, murder, abduction, rape, robbery, etc., may be fired upon. It means that anybody about to commit any of these offences may be shot. I can understand a magistrate being invested with these powers. But section 5 is quite general. The Sub-Inspector in a disturbed area in a district may not be acquainted with local conditions. For instance, there are obstructions caused by some Brahmins to Harijan processions in spite of all the measures that we enacted. There are obstructions caused to the passage of processions by Harijans. Especially in the village of our Hon. Minister, Sri Sitharama Reddi, there was a disturbance caused like that. In another village, obstructions is caused not by Brahmins, but by Lingayats. There is no member of the Lingayat community represented in this House but in the other House, there is a representative. The District Magistrate or the District Superintendent of Police should be approached for taking out the procession. There are also processions by Lingayats with some kind of insignia which gives offence to the Brahmins. There has been litigation on this for the last half a century, and thus there are laws laid down by the High Court for the taking of processions. Ordinarily in such cases, there is strife between sections of people. I do not know whether such apprehended disturbances or disorders are contemplated by this measure. I think it is a tremendous power that will be vested in the Police Officer if such things are also included in this measure. I think it is not at all safe to invest the Police Officer with such powers. As my hon. Friend Dr. John said, a place should be declared a disturbed area only in bona fide cases and only after giving due warning. That is why he said that this measure requires some

[Sri B. Bhima Rao]

[21st February 1948]

revision. Again; it is a measure which ought to have been considered by a Joint Select Committee. I do not know why such a procedure has not been adopted in this case."

12-30
P.M.

* DR. SIR A. LAKSHMANASWAMY MUDALIYAR :—

" Mr. President, I join with the hon. Member Mr. Suryanarayana Rao in taking serious exception to such an important measure as this being moved in the absence of the Hon. the Home Minister, who is responsible for it. I have time and again expressed the view that when important measures of this kind are concerned it should be the duty of the Leader of the House not to bring in such measures before the House unless the Member in charge of them is in a position to be present here to answer any doubts or difficulties that may arise. More than that, it is certainly not in keeping with that amount of respect, the minimum of respect that is due from the Treasury Bench to the House—that important measures of this nature should be brought before the Council and attempted to be passed as if they were measures of no importance or significance. I cannot possibly imagine on this occasion, although on a former occasion the Hon. Minister Mr. Madhava Menon tried to justify it, what urgency there was for this measure to be brought forward here to-day when it could be brought three or four days later when the Hon. Home Minister had returned from Delhi. I quite realize that important matters concerning State and Administration may have precluded the Hon. Minister from being here to-day, but I maintain, Sir, that it is neither fair nor courteous, nor even equitable that a measure of this description should be placed before the House in this manner. I had hoped that if Hon. Dr. Subbarayan had been here to move that this House go in camera so that we may obtain from him all the relevant information that is so necessary for a legislation of this nature to be understood, appreciated and willingly passed. Do the Government suggest that when such a serious measure affecting the vital interests of the public is being considered, it is not of some consequence that they must take everybody into confidence and carry with them all those who do not want purposely to oppose any measure of the Government? I need not recapitulate the speeches of hon. Members now sitting on the treasury benches in those halcyon days when they were fortunately in the opposition and they raised a shout against the inequities of those in the seats of power, a shout which drowned even the mighty noise of the ocean.

" Sir, I am afraid that the Government have got into a panic. There are perhaps some reasons why they should be agitated as everybody is agitated. But no Government should get into a panic particularly when legislative measures are being enacted. Let us look at similar measures which were enacted in the past—The Rowlatt Act, the Criminal Law (Amendment) Act and the Defence of India Act. In none of these do you find a provision similar to the one sought to be enacted in this Bill. I am not going into the details of those legislation or to point out as has

21st February 1948] [Dr. Sir A. Lakshmanaswamy Mudaliyar]

been point out times without number that unfortunately it has become a habit with this Government to introduce ill-digested, ill-written and ill-understood legislation without a proper consideration of the effects of that legislation.

" Sir, various criticisms have been passed by hon. Members pointing out how absurd it would be if this legislation was passed and how it will lead to incongruities in the course of its administration. Apart from all that, I wish to ask the Government: 'Do the Government really believe that the situation in this country will be controlled by mere punitive measures, or have they got any other purpose behind, anything else in view to remove the necessity for the punitive measures so that there will be better reapproachment among all the people? Sir, it is not humiliating that almost within six months of the declaration of independence we who have shed all foreign control from our country should be in the unfortunate position of having to pass such a legislation affecting our people and our own countrymen, our own citizens and our own brothers and sisters. What has brought about this situation? The Hon. Minister who moved this Bill should have explained it and he should also have told us what steps the Government are going to take to improve the situation. Sir, I agree that times are bad, that there are elements which are trying to get into power, that there are small little groups which are trying to control the destinies of this empire. Therein lies the great danger.

" The hon. Member said that prevention is better than cure, a maxim with which I am undoubtedly 100 per cent in agreement for more reasons than one. But what are the preventive measure that Government contemplate? Not this Draconian legislation. The history of every country in the world abound in instances where legislation of this nature far from preventing the evil has only aggravated it more and more.

" Sir, I do not want for one moment to stand in the way of the Government maintaining peace and order and protecting the law-abiding citizens. I am afraid there is to-day a great deal of lawlessness which has to be controlled. But there are measures like the Curfew Order and the Martial Law which the Government can resort to at any time. With these two, there is not one single situation that cannot be controlled. But granted that there are such situations, granted that legislation is necessary from the point of view of the Government, if they had given us an idea of the steps they are proposing to take to see that there is better understanding amongst the people, that these hatreds are not let loose, that there is a sincere attempt to bring about a reasonable understanding for the good of the country among those who have unfortunately gone astray, I think that would have been better approach than what this legislation alone can achieve, whatever its merits or demerits.

" I am afraid Sir, that the history of political parties in this country has always been such as to promote rivalry among them

[Dr. Sir A. Lakshmanaswamy Mudaliyar] [21st February 1948]

for imitating the worst rather than the best features of each other. Those who started some of the things might have had different views, but to-day unfortunately, flag hoisting, raising of volunteers, parades, salutes and all these things have led to a state of affairs when groups of people have come to believe that they could raise private armies openly or secretly and threaten the safety of the country. It is the duty of the Government to root out this evil not merely by punitive legislation, but also by a certain amount of persuasion, co-ordination and co-operation, by calling all the people for a straightforward discussion and doing their level best to see how far a concrete understanding can be arrived at among them.

“ Sir, I speak with a certain amount of feeling in the matter, because I know that hon. Members, some of them at any rate, though they may move with the people, do not exactly know all the things that are going on in the minds of the people. The Hon. Ministers when they go on tour are naturally surrounded by those who are their party men and who agree with them. Those who do not agree with them do not meet them and do not have opportunities to contact them. You do not know what their feelings are. Even a small grievance is made into a big thing and tremendous influence is brought to bear on them. Have they considered what are the causes which have resulted in such violence, in difference between community and community and section and section and even between linguistic areas, which I have anticipated sometime back and which I am afraid will take a worse turn in a very short time?

“ Sir, I would not end with appealing to the Government alone. I would appeal to the leaders of all political parties, to my hon. Friends on my right, to realize where we are. Think of the bitterness, the fights, the suspicion and the distrust which will end in a general deluge, where none of us will be safe, where the whole country will not be safe and where once more the things which happened in the 17th and 18th centuries will be repeated and the chequered history of India will be staged again.

“ Sir, it is no use of Government saying that they know how to run the Government. Sufficient evidence is already before the public to show that a party which had been for a quarter of a century in the opposition is not exactly the party which will have all the attributes necessary for a good Government of the country. We sympathise with them in that position. But I do feel, Sir, that this legislation whatever its fate may be—I am sure it will be passed—will not be taken as empowering the Government to do what they like—but as setting the Government thinking as to what they should do to prevent rather than cure the malady, and in the words of the Hon. Minister Mr. Madhava Menon, to see that the legislation is a dead letter. If people are approached in a proper spirit there will be good response. Courtesy begets courtesy, faith begets faith and tolerance begets

21st February 1948] [Dr. Sir A. Lakshmanaswamy Mudaliyar]

tolerance and good-will enriches the possibility of good-will. It is only in that sense I hope the Government will realize that this legislation is accepted by this House as a punitive measure not for all time but only for a time inspite of its grotesque absurdities. Sir, we cannot rest content with a legislation of this nature. I must ask the Government, the leaders and the prominent people all over the country to bring about a better state of things in this country, if only because we wish to live as a nation, to live as one country bridging all the differences."

* SRI K. NATARAJAN :—" Mr. President, Sir, I really mean no disrespect to my Hon. Friend Dr. Lakshmanaswami Mudaliyar when I say that the statements he made lend support to a measure of this kind. I have been very carefully taking notes of the very phrases he used and this is what he has said :

'I am afraid there is very great deal of lawlessness.' I hope I am doing no violence to the excellent language employed by him in repeating his ideas in my own way. He said :

'I am afraid there is a great deal of lawlessness. . . . There are private rival organizations with some kind of violent methods. . . . There are violent differences between communities and between different areas.'

I think that in his own estimate of the state of affairs in the country, there is necessity for a measure of this kind. The next thing is what is to be done by the Government. Even in peaceful times, situations arise when strict control has to be maintained over the community to see that disorders do not arise. If Government wants to function as a Government it has to choose between two lines; it should not interfere with the liberty of the individual or the community or an organization and the second is, it should curb the licence, if any, taken by any particular individual, community or organization. The Government should hold the scales even and take action according to the trends of the time and the necessities of the hour. Unfortunately, we are in a very dangerous position now. Perhaps it is graver in the north, but not so grave in the south. Anyhow we should be forearmed and as my non-Friend said : Prevention is better than cure.

" Sir, this Act does not give in the very first instance any authority to anybody—the District Magistrate or anybody else—to deal with any situation which may arise. The Government have first of all to notify an area as a disturbed area. The Government will notify an area as a disturbed area only if there is sufficient justification for it. They will not do so if a few deaths take place by violence, a few thefts take place or a few abductions take place. I am sanguine that the Government will not under those circumstances proclaim the area as a disturbed area. They will treat them as isolated instances of lawlessness and proceed to deal with them accordingly under the ordinary criminal law. But if these instances multiply in number, if the violence increases in intensity,

[Sri K. Natarajan]. [21st February 1948]

the Government would be failing in their duty if they did not take adequate precautionary measures and waited till all the crimes accumulated.

12-45 P.m. " There was some objection raised by some hon. Friends that there is no definition of a disturbed area. But the sections which are quoted in clause 4 give us an idea of what are the offences which will be taken into consideration for proclaiming an area as a disturbed area. If there are frequent murders, if there are frequent kidnappings and the like, they will be taken to mean that sufficient material exists for proclaiming an area as a disturbed area. On the other hand, if the Government were to take one or two instances say in Tanjore and to proclaim an area as a disturbed area, the Government will not be exercising their discretion properly. I hope and trust that the Government will not notify an area as a disturbed area unless there is sufficient material for doing so. Therefore there is no meaning in saying that there is no definition of a disturbed area. I ask any hon. Friend here to define a disturbed area without serious objection being taken to some portion of the language used. 'Murder,' 'rape,' 'abduction, etc., have been defined in the Penal Code. In spite of these definitions, there is room for High Court Judges to say that they are not correct. Even if there is a definition, there will always be room for deciding whether a particular offence comes under that definition. The Government must have sufficient material to decide that an area is a disturbed area. Some hon. Members desire that 'a disturbed area' should be defined. We can safely leave it to the Government to decide what a disturbed area is. They will not arbitrarily and unjustly call an area as a disturbed area.

" I shall deal with the next question which was dealt with by some hon. Members. In clause 4, the sentence of death penalty is prescribed. No doubt that penalty is prescribed. But there will be satisfaction that the matter will be taken to the ordinary Courts, that the procedure laid down in the Criminal Procedure Code will be followed and that the Sessions Judges will deal with the cases. It can be said that the maximum punishment need not be death but something less. It is left to the Government to decide whether they should prescribe the extreme penalty of death for certain offences. In certain cases, death sentences are awarded under the Penal Code. It is for the Government to decide whether they can do away with this extreme penalty of death they have prescribed for all the cases that are mentioned in clause 4 of this Bill. I do not know whether it is sufficient consolation to be told that the Sessions Judge, who will adopt the procedure prescribed in the Criminal Procedure Code, will decide whether death sentence should be imposed in all cases; he may impose a deterrent punishment which may fall short of the death penalty. I think the provision is there in the Bill not for the death sentence being imposed invariably in all cases but to instil terror in the minds of persons who are inclined to commit the offences. It is for the

21st February 1948] • [Sri K. Natarajan]

Judges who deal with the cases to go into the merits of the case and to impose the sentence of death or a deterrent punishment as is laid down in the Code.

“ Clause 5 of the Bill says that any magistrate and any Police officer not below the rank of head constable may fire upon a person after giving warning. I would suggest that the wording may be ‘ any Magistrate or any Police Officer,’ etc. The Legislative Assembly may adopt the amendment we propose here. The Hon. Minister in charge, Dr. Subbarayan, is not here; he may adopt the amendment I am suggesting. I think that it is not advisable to give joint jurisdiction to a magistrate and a Police officer. There may be differences of opinion among them. If power is given to either of these persons, it may go a great way to remove the apprehensions of my hon. Friends opposite. I believe that it is not the intention of the framer of the Bill to have word ‘ and ’. I think some violent argument was advanced against that word. The word ‘ Magistrate ’ might include ‘ honorary Magistrate ’ also. If it is possible, you may decide the categories of Magistrates that should be given the power. The Government may adopt the words ‘ any Magistrate or any Police Officer ’. If any Magistrate is not available on the spot immediately, power may be given to the Police officer not below the rank of a Sub-Inspector. I think that every magistrate cannot be given the power. There must be a definition of the particular magistrate who has to exercise his discretion.

“ It is stated in the Bill that the officer may give warning if any such warning is necessary. It means that warning need not be given in all cases. Warning should be given in all cases if possible. Even in very disturbed areas, we see shots are fired in the air. The intentions of the Government should be that warning should be given in all cases. I do not know whether the Treasury Bench will adopt the suggestions I have made.

“ I do not think there is any other difficulty in the latter portion of clause 5. It says that the Magistrate and the Police Officer may use force against any person who, in a disturbed area, is acting in contravention of any law or order for the time being in force in such area, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons. The magistrate or the police officer must decide whether there has been any contravention of the law in force, such as prohibition of the assembly of 5 or more persons. The word ‘ weapons ’ is not defined. I think it has not been defined in any Code. The question what is a weapon has come before judicial tribunals; so far as my experience goes, there have been inconsistent decisions in the matter. What is a weapon? A stick may be a weapon. As far as my experience is concerned, the Courts have a rough and ready method of deciding what is a dangerous weapon. The cane I am using may be considered to be a weapon. A big stick or a bichuva may be considered to be a dangerous weapon. There are certain well-defined ideas current in the minds

[Sri K. Natarajan] [21st February 1948]

of Judges. Only if law and order for the time in force or if the prohibition of the assembly of 5 or more persons or the carrying of weapons is infringed, the magistrate or the police officer has to use force. In using his discretion, the magistrate has to consider the nature of the disturbance, its immensity or violence. I do not know whether a police officer below the rank of a Sub-Inspector will always be able to use his discretion well. The Members of the Treasury Bench may not be there in the disturbed area; even the District Magistrate may not be able to go to the disturbed area. There may be telephone or telegraphic dislocations, there may be dislocation of buses and motor cars. Action has to be taken in the matter only after a responsible officer has gone into the question. It is impossible to define grave dangers. But we find that disturbed situations occur. My hon. Friend, Mr. Mudaliyar eloquently pleaded that Members of the Treasury Benches should carry on propaganda to restore goodwill among people. Are they not doing so now? I see in the papers that, whenever a Minister goes about, he gives out his first thought in his mind that there must be amity between communities, that they should not take law in their own hands and that there should be no disturbances after obtaining our freedom. Every Minister repeats these ideas. Members of the Legislative Council and the Assembly are also doing so. But mere persuasion or eloquent appeals would not do. Some other sanction must be vested in the Government in order to supplement these efforts to bring about peace and goodwill. This may be a drastic measure but we have to deal with situations as they arise and we have to take drastic measures.

“ The last clause—clause 6—of the Bill says that no prosecution shall be instituted without the previous sanction of the Provincial Government against any person exercising the powers given to him under this Bill. If a certain police officer or a magistrate misbehaves or resorts to force *mala fide* the Government will certainly sanction his prosecution. If he has acted in good faith, the Government will not sanction his prosecution. The Magistrate has to consider every aspect of the situation: when there is anarchy or violence, it is possible that the police officer may lose his balance or may use his discretion well. It is not for us who are away from the scene of the disturbance and who are discussing it after say 20 days, to say what the police officer should have done in the circumstances. We must make some allowance for the immensity and gravity of the situation. Even if the police officer went a little out of the way in using his discretion, the Government must support that officer. Otherwise where is the safety to the police officer? He will not deal with the situation and may not act according to the provisions of this Act, if the Government will not support him. We must leave it to the magistrate to consider all aspects of the situation. If some of the amendments I have suggested are accepted, I think this Bill will be supported by a large number of Members. The punishment of death may be the extreme penalty. But it need not be awarded as maximum punishment. Some less penalty—transportation for life—may be imposed.

21st February 1948] • [Sri K. Natarajan]

" We have a very painful incident from which we have not yet recovered. The temperament of the person who committed the act is responsible for the tragedy. Did he care for death? No, he did not care for his death.

" My hon. Friend Mr. Bhima Rao said that death sentences should be abolished altogether. Even though there is a fear of death sentence being awarded, it does not prevent a person from committing a serious offence. People committing such offences have a particular mentality. They think they are doing the right thing. They must be either lunatics or they think that they are serving a patriotic cause. Therefore, if any person commits such a serious offence, the maximum punishment that can be awarded should be transportation for life. Sometimes death sentence may be imposed. But there is the High Court to commute it. It is also to be considered that between the sentence and the execution, there is the possibility or the probability of the High Court's interfering. It does not seem appropriate that death sentences should be given in the first instance and then leave it to the accused person to take the matter in appeal to the High Court as a matter of mercy."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I most wholeheartedly echo the sentiments expressed by my hon. Friend Dr. Lakshmanaswamy Mudaliar that persistent attempts should be made to establish harmony and goodwill among the communities; that way lies real salvation. He also appealed to us, the members of the Muslim League Party, to co-operate with the Government in regard to the matter. I can remind him and the Members of this House that so far as we are concerned, from the very beginning we have been wholeheartedly co-operating with Government in matters regarding the maintenance of law and order and our co-operation and our help in this regard has been throughout acknowledged by the present Ministry as well as the Ministry which preceded it. Therefore, there can be no two opinions regarding the attitude of my party towards the question of maintenance of law and order. But what is the response to this wholehearted co-operation which we have been offering. Ex-J'emier, Mr. T. Prakasam, has very often repeated that but for the co-operation from the Members of the Muslim League Party as well as the good sense exhibited by the various communities in this land, there would not have been complete maintenance of law and order in this Province at a time when riots were rampant in other parts of the country. But what is the position now? My Friend Mr. Lakshmanaswamy Mudaliar himself used the words ' this sort of suspicion '. Sir, the attitude of the present Government towards the Muslim minority which has been consistently co-operating with the Government in the matter of maintenance of law and order, has of late been actuated by ' this sort of suspicion,' to adapt the words of Dr. Lakshmanaswamy Mudaliar. I will recall to your mind the fact that a few weeks ago Muslims were arrested wholesale in certain parts of the Province merely on suspicion and they were detained under the Public Safety Act. There were house searches

[K. T. M. Ahmed Ibrahim Sahib Bahadur]

[21st February 1948]

and searches of mosques and burial grounds. But nothing incriminating was found. Even domestic utensils were taken away as dangerous weapons and in spite of all that, they were detained. And on what basis were they detained? On mere suspicion! This suspicion has not been justified. Searches were made and these searches proved to the hilt that there was no basis for that suspicion. But still Government persist in their attitude. Then, there were searches in the City of Madras and also you know certain Muslim officials were dealt with in the Province in a particular manner on mere suspicion. And now, Sir, comes the treatment of the very persons who have been co-operating with the Government in the matter of maintaining law and order.

“ The Government rightly or wrongly banned the Muslim National Guards Organization. At once the Convenor of the Indian Union Muslim League, who is also the President of the Provincial Muslim League and the Leader of the Opposition in the other House, said : ‘ You treat the organization as being disbanded and dissolved.’ At the same time he also said that that organization has never been of a semi-military character. It has always been co-operating with the Government in the matter of maintenance of law and order and rendering help to the Government consistent with the attitude of their Party. I would, in this connexion, relate some instances to show this organization and its predecessor, the Muslim League Volunteers have conducted themselves in this Province. Government officials themselves have acknowledged the help they received from Muslim League Volunteers. When the ‘ Indian Express’ and ‘ Dhinamani’ offices in Georgetown were set fire to, it was the Muslim League Volunteers who wholeheartedly helped in extinguishing the fire and when evacuees were coming from Malaya and Burma, it was the Muslim League Volunteers who toiled night and day to render them all necessary help. I remember that the then Governor of Madras went to the extent of saying ‘ that the work that they have been rendering has been wonderful.’ You would find these people in any place where there were disturbances and without caring for their lives and risking themselves they would rush to those places and try to appeal to the Muslims to keep calm and patient. It is on account of those efforts that the Muslims in various places have been maintaining patience and calm in spite of the greatest provocation at the hands of the majority community. Now, Sir, what has happened. The organization was banned and the Convenor of the Indian Union Muslim League said : ‘ You treat the organization as having been disbanded and dissolved’. But we find that members belonging to that organization and who have been co-operating with the Government in maintaining law and order have been arrested. The police people to go to their houses at the dead of night and they conduct searches, nocturnal searches and arrests. These men have not gone into hiding and they have been doing things in the open. I fail to see the need for night searches. I understand that some people have been arrested who have nothing to do with the Muslim National Guards Organization. People who have nothing

[K. T. M. Ahmed Ibrahim Sahib Bahadur]
21st February 1948]

to do with the organization and who are not members of the organization, have been kept under detention. Even those who have given the necessary undertaking dissociating themselves from its activities as instructed by the Convenor who is also President of the Provincial Muslim League have not been released. Why? It has been said on the floor of the other House in the old bureaucratic manner that cases are being looked into and they will be released if they are not dangerous to society. When did they become dangerous? Where is the ground to think them to be so; is it not based on mere suspicion? When the Public Safety Act was enacted for the purpose of restraining people from doing acts endangering peace, repeated assurances were given on the floor of the House that the provisions of the Act would be used cautiously and that cases of detention would be considered in a most dispassionate manner. I wish to ask how many months have elapsed since these arrests were made or since the necessary declarations and undertakings were given and what the Government have been doing all along? Does it require so much time to look into and dispose of these cases? Government have deprived people of their elementary and fundamental right but still you say that you have not considered the matter but that it will be looked into. Members of the Muslim League National Guards have not been released, while several members belonging to the R.S.S. have been released directly the undertaking dissociating themselves from the organization was given."

THE DEPUTY PRESIDENT :—" May I know how this is relevant to the Bill."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" My point is that I want to tell the House, how the measure would be worked in actual practice and how such measures are being carried out in practice by this Government.

" This is how the Muslim National Guards have been arrested on mere suspicion. Have they been able to secure any kind of evidence before they were arrested, before house searches were conducted. Not at all. They are detained and we are told that their cases will be looked into. Not a single person arrested on the ground of belonging to the National Guards has been released while a certain number of R.S.S. people have been released.

" Then, coming to the provisions of the Bill, I am glad that it has been very well dissected not only by members on this side of the House but also from the other side. My hon. Friend, Mr. Madhava Menon says that prevention is better than cure and that they have formulated measures for that end. I do not know how this measure is going to 'cure' disturbances. This measure when it becomes an Act will come into operation only after the event, only after an area has been declared a 'disturbed area'. We are told that punishment with death will act as a deterrent. I would like to know how this section 4 will act as a deterrent and will

[K. T. M. Ahmed Ibrahim Sahib Bahadur]

[21st February 1948]

prevent people from committing serious offences. Do these people who are going to commit these offences know that they will be punished with death even though under the Indian Penal Code, they will be awarded a lesser sentence? Is it going in any way to weigh with them? When it is put on the Statute-Book, is it going in any way to affect their mind? Will these miscreants know that it is going to cost them their lives?

"Regarding section 5, it is the most abominable piece of legislation I have ever come across with. Even an illiterate person entering as a constable is being promoted as head constable and, fancy, a head constable being empowered to take action under it. I cannot understand how it was originally thought that the head constable should be invested with such power. Can such people be given powers to shoot down human beings. Even now the Police officers can issue orders for opening fire according to their sweet will and pleasure. They need not comply with any requirements of law. I think we have not come across any such provision in any Statute-Book in any part of the world."

THE HON. SRI K. MADHAVA MENON :—"It was there in the Punjab."

1-15
p.m. K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"That takes me to the days when we were all together in the movement, the days following the Jallianwalla Bagh massacre. General Dyer said: 'I shot and shot till the ammunition was exhausted'. The Enquiry Committee came to the finding that it was an error of judgment and it was against that error of judgment that we started the struggle of non-co-operation. It was at least a General in that case. Here, an ordinary Sub-Inspector is going to be invested with that power to order the opening of fire against human beings and he is not to comply with the requirements of any law. If he thinks that a necessity has arisen to open fire he can issue orders and he need not care for any one. Is that the way that human beings are intended to be dealt with after we have achieved independence? The Hon. Madhava Menon said that in view of certain warnings received in the province, they are bringing forward this measure. I have been receiving letters and people have come to me from the affected areas. I have also seen the devastation that has been caused; photographs have been brought to me showing the havoc caused on the very day on which the apostle of non-violence was assassinated. These things have taken place in Tiruvannamalai, Edapalayam, Erode, Rajapalayam and other places. Mosques have been demolished; tombs have been desecrated; tanneries have been burnt and many houses have been damaged and the damage caused runs to the tune of several lakhs of rupees. What has the Government done in regard to these things? Has any of the Ministers gone to those places and made any enquiries? These people have been running about without food and shelter. Yet, we find it stated now by some that the Muslims are proving dangerous to the Hindus of Tiruvannamalai."

21st February 1948]

THE HON. SRI K. MADHAVA MENON :—“ May I remind the hon. Member that occurrences of Edapalayam and Tiruvannamalai are *sub-judice*. ”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ I am not dealing with individual cases which are pending before the Court; I am only dealing with the general occurrences that happened in those places and I do not think I am contravening the rules. ”

“ Even of the measure is enacted, will you be able to prevent similar things taking place in any part of the country? You will put this Act into operation only after the event. I am very anxious that Government should do something in the matter. In the places I have mentioned, it went on as if the Police and the Magistracy had abdicated their functions. Does not the ordinary law of the land suffice to prevent such occurrence? Are there not Police stations in those places and if so, what did they do? When houses and shops were being burnt into ashes, what were the Police doing? Even after the measure is passed, I fear the same thing may repeat itself unless proper steps are taken. I have to refer to another matter. A certain news item appeared in a certain section of the press and it contributed to those occurrences. We have been crying hoarse here and outside that it is the paramount duty of Government to keep a watch over the press and prevent them from spreading communal virus in the country. ”

SRI B. NARAYANASWAMI NAYUDU :—“ Is it a press of this province ? ”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ It is. ”

SRI B. NARAYANASWAMI NAYUDU :—“ May I know which press? ”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ The Government knows. ”

SRI B. NARAYANASWAMI NAYUDU :—“ I do not know. ”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Along with the news of the unfortunate and the most dastardly assassination of Mahatmaji, there also appeared in that paper—it was an A.P.I. message—a news item to the effect that while Pandit Jawaharlal Nehru was delivering a lecture at Amritsar two persons were arrested with hand grenades in their possession; one of them was dressed like a Hindu and the other like a Sikh and along with that there was another message to the effect that a Muslim was caught with a hand grenade at the meeting and both these were published in bold types. And from this people thought that it must have been a Muslim who was responsible for Gandhiji's death and that is the reason why all these troubles arose there. Even in the City of Madras when I was coming from my office I heard people saying that a Muslim had killed Mahatmaji and that is how sentiments had been worked up against Muslims. ”

[21st February 1948]

SRI B. NARAYANASWAMI NAYUDU :—" Which is the paper that circulated that news? "

THE HON. DR. T. S. S. RAJAN :—" Interpellations between hon. Members and answers thereto are going on while there is the Deputy President to regulate interpellations."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I was about to finish. We have been accustomed here in this House to such questions and answers."

SRI B. NARAYANASWAMI NAYUDU :—" Certain statements were made to the effect that certain news items were responsible for the flare up in certain places and I wished to know which paper it was, so that Government's attention might be drawn to it."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I am very anxious to see that newspapers in the province are kept under restraint in such matters and unless it is done this virus will spread. That is my last request to Government."

THE DEPUTY PRESIDENT :—" Mr. Farookhi Sahib. How long will you take? "

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" It is just twenty-five minute past one and I will require at least fifteen minutes. I believe we are going to continue this debate till Monday."

THE DEPUTY PRESIDENT :—" Yes."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I do not think I will even finish a few sentences."

THE DEPUTY PRESIDENT :—" Shall we adjourn? "

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" So I may be permitted to speak first on Monday."

THE DEPUTY PRESIDENT :—" Yes. The House will rise now and meet again on Monday, the 23rd February 1948."

V.—PAPERS LAID ON THE TABLE OF THE HOUSE.

The Madras Suppression of Disturbances Bill, 1947 (L.A. Bill No. 5 of 1948) as passed by the Assembly and received therefrom in the Council.